

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.8816 of 2016
Date of Decision: September 26, 2017

Yash Paul Shukla

...Petitioner

Versus

The Central Administrative Tribunal, Chandigarh & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL
HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr.G.P.Vashisht, Advocate,
for the petitioner.

Ms.Deepali Puri, Advocate,
for respondent Nos.2 & 3.

AMIT RAWAL, J.

1. Petitioner having remained unsuccessful in setting-aside the order dated 12.2.2015 (Annexure A-1) before the Central Administrative Tribunal, Chandigarh Bench (for short "CAT"), whereby respondent authority, i.e., the Director Transport-cum-Divisional Manager, Chandigarh Transport Undertaking, after compliance of the principles of natural justice, cancelled the candidature of the petitioner for the post of Bus Driver in the Chandigarh Transport Undertaking (for short "CTU"), has approached this Court.

2. Mr.G.P.Vashisht, learned counsel for the petitioner submitted that respondent No.2-Chandigarh Administration through its Home Secretary, vide advertisement dated 17.10.2012 (Annexure A-2), advertised 114 posts of Bus Driver, out of which 48 were meant for general category

and 21 for scheduled caste category. The prescribed educational qualification, as per the advertisement, was matric pass from any recognized Board/University. Possessing the aforementioned qualification, the petitioner being fully eligible, applied through online process on 29.11.2012 vide Annexure A-4. On 2.6.2013, written test was held and the petitioner qualified the same. On 22.1.2014, his Medical examination was also conducted and was found fit. After competition of all the requisite formalities, the petitioner was fully eligible for appointment as a Driver, but was astonished to receive a show cause notice dated 6.8.2014 (Annexure A-7) calling upon him to file reply to the allegation of not disclosing the factum of registration of FIR No.359 dated 12.5.2003 under Sections 279, 336 and 427 IPC at Police Station Panchkula. The petitioner submitted detailed reply dated 8.8.2014 (Annexure A-8) by pointing that cancellation of candidature could not be done as the FIR aforementioned resulted into imposition of fine only. However, the candidature of the petitioner has erroneously been cancelled on the aforementioned premise.

3. It was next contended by the learned counsel for the petitioner that the order of the CAT declining to set-aside the order of cancellation of candidature is not sustainable in the eyes of law as the CAT failed to appreciate that the Judicial Magistrate Ist Class, Panchkula in the aforementioned criminal case directed the petitioner to pay a fine of ₹1,000/- in respect of commission of an offence under Sections 279, 336 and 427 IPC, though there was no concealment on the part of the petitioner as by the time the application was submitted, the criminal proceedings had culminated into imposition of fine. The cancellation of the candidature of the petitioner has precluded him from taking any government job.

5. Per contra, Ms.Deepali Puri, learned counsel for respondent Nos.2 and 3 submitted that in the criminal case, the applicant-petitioner pleaded guilty by tendering his confession, whereby he was convicted and sentenced to pay a fine of ₹1,000/-. It was, thus, not an acquittal. The post for which the petitioner was to be appointed is a sensitive one as the safety of the passengers is the prime duty of the driver. Once he was involved for the commission of an offence involving the accident, the passengers travelling in the CTU bus would be at great risk. Petitioner had also submitted an affidavit dated 24.1.2014 as noticed in the order under challenge, concealing the factum of registration of the FIR. In fact, the application form was to be accompanied by an affidavit. As per clause 9 of the same, the petitioner was required to disclose any conviction of any offence or enquiry and, thus, urged the Court for dismissal of the writ petition.

6. We have heard the learned counsel for the parties, appraised the paper book and are of the view that there is no force and merit in the submissions of Mr.G.P.Vashisht, learned counsel for the petitioner.

7. Concealment of an information with regard to the conviction of the petitioner as per the order dated 7.11.2003, whereby he was directed to pay a fine of ₹1,000/- is a deliberate attempt as it was not an acquittal. The petitioner should have been more transparent and fair to disclose the factum of registration of the FIR. Had the petitioner disclosed the information, the authorities would have considered the same for appointment, but not in the manner as indicated above. Appointment of a driver to drive the transport bus for ferrying passengers involves a great procedure and experience, dehor of the fact that written test was cleared.

8. The petitioner had submitted a false affidavit (supra). Noticing the conduct, his submissions did not find favour by the CAT. Earlier conviction is also for driving a truck in a rash and negligent manner. Such an act would definitely endanger the human life and personal safety of others. The conviction was based on the admission. All these factors weighed in the mind of the authorities in declining his candidature.

9. For the reasons stated above, we do not find any illegality or perversity in the order cancelling the candidature of the petitioner and the order of the CAT upholding the same cannot be faulted. Resultantly, the writ petition is dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**September 26, 2017
ramesh**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No